

## REMARKS

### Amendments

Applicant has amended the Specification to update the status of U.S. Patent Application Ser. No. 09/910,190 from which the subject application claims priority.

In view of the following remarks, reconsideration of the application is respectfully requested.

### 35 U.S.C. § 103 - Claims 1-4, 8-11, and 15-19

Applicant requests reconsideration of the rejection of claims 1-4, 8-11, and 15-19 under 35 U.S.C. § 103(a) as being unpatentable over US Patent Publication 2001/0041991 (Segel) in view of US Patent 5,772,585 (Lavin).

According to the Office action, Segal discloses each of the elements of the claims except a health care professional interface program adapted to permit an authorized health care professional to access the portion of the individual medical records for which the health care professional has authorization and to input additional patient medical history and biographical information into the corresponding individual medical record of the database.

Thus, the Office action alleges Segal discloses a medical records system comprising: a central computer connected to a global computer network having a medical records database thereon, said database containing individual medical records of a plurality of patients, each of said records corresponding to one patient of said plurality of patients; a patient computer connected to the global network remote from the central computer having a patient interface program adapted to permit a patient to input medical history and biographical information into the medical records database and to authorized a health care professional to access at least a portion of the individual medical records of the respective patient; and a health care computer connected to the global network remote from the central computer.

The Declaration filed with Amendment A shows that applicant recognized:

[T]he amount of information . . . is massive . . . [requiring] enormous technical resources. . . . The financial viability could be enhanced by also providing an electronic storage service to [health care providers]. . . .

Providing the computer-modem equipment to each [health care provider] on a flat rental . . . . [would] reduce overhead for the [health care providers] . . . ." (Exhibit A of Declaration filed Oct. 7, 2009, page 6.)

Exhibit A also proves applicant envisioned that "each individual [has] his/her own folio." These statements clearly show that applicant conceived of "a medical records system comprising: a central computer connected to a global computer network having a medical records database thereon, said database containing individual medical records of a plurality of patients, each of said records, corresponding to one patient of said plurality of patients." Thus, Exhibit A proves Applicant conceived of the first element of claim 1 prior to the effective filing date of Segal.

Exhibit A states "PC's and the internet speed have increased enormously . . . . Absent an intimidating interviewer (i.e. [a health care provider]) and surroundings [(i.e., a doctor's office)], time pressure or other constraining factors, it could be argued the interviewee would be able to provide more accurate and reliable answers." (Exhibit A of Declaration filed Oct. 7, 2009, page 10.) Thus, Exhibit A proves Applicant conceived of the second element of claim 1 prior to the effective filing date of Segal.

Exhibit A states, "Terminals could be placed in the offices of [health care professionals] for the individual [medical history] generation . . . ." (Exhibit A of Declaration filed Oct. 7, 2009, page 6.) Thus, Exhibit A discloses, "a health care computer connected to the global network remote from the central computer having a health care professional interface program."

The Declaration and Exhibits filed with Amendment A prove that Applicant conceived of each of the elements for which Segal is cited. Further, the Declaration and Exhibits make clear the Applicant understood the entire functionality of those elements. Accordingly, Segal **cannot** be used as prior art against claims 1-4, 8-11, and 15-19 under 35 U.S.C. § 103(a) to show those elements. In view of the foregoing, applicant respectfully requests withdrawal of the rejections of claims 1-4, 8-11, and 15-19 as being obvious over Segal in view of Lavin.

Applicant is not opining as to the teachings of Segal because such an opinion would be superfluous as the reference cannot be used as prior art against the claims of the present application. Omitting a direct response to the Examiner's interpretations of

the teachings disclosed in Segel should not be inferred to mean Applicant concurs with the Examiner's opinions or interpretations.

35 U.S.C. § 103 - Claims 20-27 and 29-34

Applicant requests reconsideration of the rejection of claims 20-27 and 29-34 under 35 U.S.C. § 103(a) as being unpatentable over Segel in view of Lavin. According to the Office action claim 20 is rejected for the same reason as claim 1. However, as shown above Segel is not prior art to Applicant's conception and understanding of the elements laid out in the Office action with respect to claim 1. Accordingly, Segel **cannot** be used as prior art against claims 20-27 and 29-34 under 35 U.S.C. § 103(a). In view of the foregoing, applicant respectfully requests withdrawal of the rejections of claims 20-27 and 29-34 as being obvious over Segel in view of Lavin.

Applicant is not opining as to the teachings of Segel because such an opinion would be superfluous as the reference cannot be used as prior art against the claims of the present application. Omitting a direct response to the Examiner's interpretations of the teachings disclosed in Segel should not be inferred to mean Applicant concurs with the Examiner's opinions or interpretations.

35 U.S.C. § 103 - Claims 5-7, 12-14, and 28

Applicant requests reconsideration of the rejection of claims 5-7, 12-14, and 28 under 35 U.S.C. § 103(a) as being unpatentable over Segel in view of Lavin and further in view of US Application Publication 2002/0049614 (Rice). The Office action does not rely upon Segel for disclosing anything other than the subject matter discussed above with respect to claim 1. As shown above Segel is not prior art to applicant's conception of the elements laid out in the Office action with respect to claim 1 as proved by Exhibit A of the Declaration filed Oct. 7, 2009. Accordingly, Segel **cannot** be used as prior art against claims 5-7, 12-14, and 28 under 35 U.S.C. § 103(a). In view of the foregoing, applicant respectfully requests withdrawal of the rejections of the claims.

35 U.S.C. § 103 - Claims 35-37

Applicant requests reconsideration of the rejection of claims 35-37 under 35 U.S.C. § 103(a) as being unpatentable over Segel in view of US Patent Publication 2001/0032100 (Mahmud). Pages 14 and 15 of Exhibit A accompanying the Declaration filed Oct. 7, 2009, discuss a method of delivering health care while controlling interaction between users, providers, and payers like the method recited in claim 35. Thus, Segel is not prior art to applicant's conception of the elements forming claim 35. Accordingly, Segel **cannot** be used as prior art against claims 35-37 under 35 U.S.C. § 103(a). In view of the foregoing, applicant respectfully requests withdrawal of the rejections of the claims.

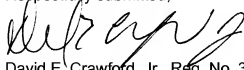
Omitting a direct response to the Examiner's interpretations of the teachings disclosed in Segel and Mahmud should not be inferred to mean Applicant concurs with the Examiner's opinions or interpretations. In view of the foregoing, applicant respectfully requests withdrawal of the rejections of claims 35-37 as being obvious over Segel in view of Mahmud.

Conclusion

The claims are allowable for at least the reasons set forth herein. Applicants request that claims 1-37 be allowed.

The Commissioner is hereby authorized to charge any deficiency or credit any overpayment of any required fee during the entire pendency of this application to Deposit Account No. 19-1345.

Respectfully submitted,



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